

STATEMENT OF REASONS
Title 2, Chapter 1, California Code of Regulations
Adopt Sections 5.1, 5.2, 75, 248, 548.2, and 548.5
Repeal Section 548.77

The State Personnel Board (Board) proposes to adopt sections 5.1, 5.2, 75, 248, 548.2, and 548.5 of Title 2, Chapter 1, of the Code of Regulations (CCR); and repeal section 548.77.

SPECIFIC PURPOSE OF EACH REGULATORY ACTION

The specific purpose of each adoption, amendment, and repeal, and the rationale for the determination that these regulatory actions are reasonably necessary to carry out the purposes for which these actions are proposed, together with a description of the problems, administrative requirements, or other conditions or circumstances that each action is intended to address, is as follows:

The proposed adoption of Sections 5.1 and 5.2 of Title 2, Chapter 1, Article 1 of the CCR adds the definitions of CEA and retired annuitant.

The purpose of the body of law concerning career executive assignments (CEA)s is to encourage the development and effective use in the civil service of well qualified and carefully selected executives. To carry out that purpose, the State Personnel Board (Board) must establish by rule a system of merit personnel administration specifically suited to the selection and placement of executive personnel. (Gov. Code, § 19889.)

The Board's regulatory scheme does not define a CEA. The specific purpose of adding the definition of "CEA" to the Board's regulatory scheme is to ensure clarity in the Board's regulations where the term is used and to ensure consistency with the statutory definition of CEA.

Proposed section 248, "Appointments and Classification Plan," refers to a "retired annuitant." "Retired annuitant" is not currently defined in the Board's regulations. Therefore, a definition is necessary to ensure consistency and clarity as to the meaning of the term.

The proposed adoption of section 75 of Title 2, Chapter 1, Subchapter 1.3, Article 1 of the CCRs provides for a streamlined and effective process for abolishing classifications that have been vacant for twenty-four months or longer.

The Board is empowered with the authority to create and adjust classes of positions in the state civil service. (Gov. Code, § 18800.) The Board may "establish additional

classes and divide, combine, alter, or abolish existing classes." (Gov. Code, § 18802.) In so doing, the Board shall consider the recommendations of the California Department of Human Resources (CalHR). (*Ibid.*) When the Board takes action as to classifications, the Board "shall determine in each instance whether positions affected are to be reallocated to another class or classes after taking into account the duties and responsibilities, qualifications, performance standards, and other related criteria before and after the change." (Gov. Code, § 18802.) The Board shall also "determine the status of the probationary and permanent employees affected." (*Ibid.*)

The Board does not currently have any regulations regarding the management of the state's classification plan. There are numerous classifications that require review and updating of the classification's job specifications. There are also classifications that have not had incumbents in the classification for years.

In addition, the proliferation of the classification system over the past several decades makes it extremely difficult for non-state employees to navigate. The state uses unfamiliar terminology to describe job classifications, and, as of January 2015, there were over 3,600 job classifications.

In December 2013, a Workgroup for the Board completed a classification analysis that identified 1,100 vacant classes; 800 of those had been vacant for two or more years. The Workgroup also recommended the elimination of 200 classes where the classes' duties could be performed by a service wide or other comparable class. This information was provided to the California Department of Human Resources (CalHR). Since January 2014, CalHR has submitted 200 classes to the Board for abolishment.

In order to expedite the process, a team of retired annuitant HR professionals was assembled in August 2014 to review class specifications and make recommendations for abolishing, consolidating, and revising classes.

While the classification project is beneficial to update and simplify state service classifications, a permanent, ongoing evaluation process of the state's classifications is also needed. Section 75 will ensure that classifications which have been vacant continuously for twenty-four months are reviewed on a regular basis. This change will streamline the review process, and promote economy and efficiency in the state's classification plan.

In addition, the Board is making a nonsubstantive, organizational change to its regulations by adding "Classifications" as a title to Subchapter 1.3, since the Board's regulations do not currently include regulations related to classifications. For consistency and style, the Board is also amending "Examination" to "Examinations." Subchapter 1.3 is therefore amended to read: "Classifications, Examinations, and Appointments."

The proposed adoption of section 248 of Title 2, Chapter 1, Subchapter 1.3, Article 10 of the CCRs requires that a person shall only be appointed to a civil service classification or CEA category that is appropriate for the functions, duties, and responsibilities of the position the person is hired to perform. Rule 248 also requires that an appointing power shall follow the Classification Plan.

The Board is empowered to adopt classes in the state civil service and may, from time to time as the Board finds necessary, establish additional classes and divide, combine, alter, or abolish existing classes. (Gov. Code, §§ 18800 & 18802.) The classes adopted by the Board are known as the "Personnel Classification Plan of the State of California." (Gov. Code, § 18800.)

Generally, persons appointed to a class may not perform duties that are inappropriate for the class to which he or she is appointed. (Gov. Code, § 19051.) In 1986, the Board, in its Personnel Management Policy and Procedures Manual (PMPPM), section 100, stated, "[A]ll positions within State civil service must be properly allocated and employees should not be assigned duties that are inconsistent with their current class." (PMPPM, Rev. 11/86, § 100, p. 100.4.) The Board also recognized that limited exceptions to this rule may occur: "The appointing power must follow the Classification Plan and not require employees to perform duties outside their classification except in emergencies, for training purposes, to meet compelling management needs as defined by SPB rules, or to return an injured employee to work."

The California Department of Human Resources (CalHR)'s Classification and Pay Guide (the C&P Guide), section 400, specifically addresses retired annuitant appointments: "A retired annuitant should always be appointed to the class, be it CEA or civil service that is appropriate to the duties to be performed." Similarly, section 320 of the C&P Guide requires that the proposed position classification for a retired annuitant must be based "on the nature of the assigned duties and responsibilities." Sections 320 and 400 have been in effect since 2000.

Section 248 is intended to: (1) update the Board's regulations to include long standing policy; (2) promote fairness and uniformity of practice in the state merit system; and (3) increase openness and transparency in state government personnel practices.

The proposed adoption of sections 548.2 and 548.5 of Title 2, Chapter 1, Subchapter 2, Article 2 of the CCRs. Section 548.2 requires that an appointment to a CEA position shall only be permitted when the position has been properly allocated as a CEA position pursuant to section 548.5, which sets forth the process for the creation or revision of CEA positions.

The Board is charged with establishing by rule a system of merit personnel administration specifically suited to the selection and placement of executive personnel, commonly referred to as CEAs. (Gov. Code, § 19889.) In addition, the Department designates positions of a high administrative and policy influencing character for inclusion in or removal from the CEA category subject to the Board's review and

approval. (*Ibid.*) The Department, however, may not designate a position for inclusion in the CEA category if there is an incumbent already appointed to the position under provisions of law governing employees other than career executives. (*Ibid.*)

The proposed new regulations provide a transparent, cost effective, and least burdensome procedure for approving and/or revising CEA positions. Such a procedure is not currently set forth in the Board's regulatory scheme.

The purpose of these regulations is to (1) promote fairness and uniformity of practice in the state merit system related to CEAs; (2) increase openness and transparency in state government personnel practices; (3) implement a process and procedure that allows persons the opportunity to object to proposed CEA position designations and revisions; and (4) promote cost-effective and least burdensome personnel practices and procedures.

The proposed repeal of section 548.77 of Title 2, Chapter 1, Subchapter 2, Article 7 of the CCRs requires the appointing power to report each appointment to the Board's executive officer within 30 days of the effective date of the appointment. Many aspects of civil service personnel practices, including information regarding CEA appointments, have been automated and are readily available to the Board for review. Consequently, Rule 548.77 is an unnecessary, time consuming, and costly step in the CEA appointment process.

CONSIDERATION OF ALTERNATIVES

The Board has initially determined that no reasonable alternatives it has considered or that have been otherwise identified and brought to the attention of the Board would be more effective in carrying out the purposes for which the instant action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.